



Application No. 10/602,758
Response dated October 24, 2006
Reply to Office Action of July 25, 2006

Docket No.: 0033-0884P
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REMARKS

Claims 1-6 and 8-16 are pending in this application. Claims 1, 6 and 8 are independent claims. By this amendment, claim 7 is canceled without prejudice or disclaimer thereto and claims 14 and 16 are amended to correct minor typographical errors contained therein.

Reconsideration in view of the above noted amendments and the following remarks are respectfully solicited.

Allowable Subject Matter

Applicants note with appreciation the indication on page 6 of the Office Action that claim 14 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, Applicants respectfully submit that this is not necessary in view of the following remarks.

Applicants respectfully point out that the Examiner has failed to address claim 16. Given that claim 16 is similar to allowable claim 14, applicants submit that claim 16 is also allowable. If the Examiner disagrees with this statement, the Examiner is requested to provide Applicant with the substance of such disagreement so that applicant may respond accordingly.

The Claims Define Patentable Subject Matter

The Office Action makes the following rejections:

- (1) claim 7 is rejected under 35 U.S.C. §101 for allegedly being directed to non-statutory subject matter; and
- (2) claims 1-13 and 15 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,795,685 to Walkup (hereafter Walkup).

These rejections are respectfully traversed.

The Rejection under 35 U.S.C. §101 is Moot

Applicants respectfully submit that the rejection of claim 7 under 35 U.S.C. 101 is moot in light of the cancellation of claim 7.

Accordingly, withdrawal of the rejection of claim 7 is respectfully requested.

Rejections under 35 U.S.C. §102(e)

Applicants respectfully submit that the claimed invention is distinguishable from the cited art, Walkup, for at least the following reasons:

The Examiner alleges that Walkup teaches a relay device comprising a VRS repeater 202 and a first signal reception unit 204 (included in the mobile radio) for receiving a signal from the outside for repeating transmission between a portable unit 208 and a base station 206. The Examiner further alleges that Walkup discloses a first radio communication unit transmitting the signal by radio that is received by the first signal reception unit. (see Office Action, page 3). Applicants respectfully disagree with these allegations.

First of all, Applicants submit that the Examiner is improperly relying upon Walkup's "system" which includes a plurality of devices (e.g., at least two VRS repeaters, at least two mobile units, a base station and a portable unit) to read upon the claimed relay "device". In other words, in the present invention a single relay device includes the claimed features, not a host of devices as set forth in Walkup.

Secondly, the Examiner suggests that Walkup discloses a first radio communication unit transmitting the signal by radio that is received by the first signal reception unit. The Examiner further notes that Walkup's base station 206 transmits a signal and the signal is received by the mobile station 204. (see Office Action, page 3, 3rd paragraph).

In other words, it appears that the Examiner is associating Walkup's mobile radio 204 with the claimed first signal reception unit, and Walkup's base station 206 as the claimed first radio communication unit. However, this interpretation of Walkup is flawed. For example, if Walkup's mobile radio 204 is the first signal reception unit, then Walkup's base station 206 cannot be the first radio communication unit because it fails to transmit the signal received by the mobile radio 204. Instead, Walkup's base station 206 either receives a signal from the mobile radio 204 or it transmits a signal to the mobile radio 204. However, Walkup's base station fails

to transmit a signal received by the mobile radio 204 and thus fails to qualify as the claimed first radio communication unit that transmits a signal received by the first signal reception unit.

On the other hand, Walkup does disclose that the mobile units include a transceiver. (see Walkup, col. 4, lines 26-30). As such, although the Examiner has missed this point, Walkup's mobile radio 204 could arguably be used for both receiving and transmitting a radio signal. However, as mentioned above, Walkup fails to disclose a single device that includes all of the claimed features. Instead, Walkup relies upon a system including a plurality of devices.

Thirdly, as for the claimed second radio communication unit provided separately from the first radio communication unit, the Examiner alleges that Walkup's transceiver 212 located in the VRS repeater 202 reads upon this claimed feature. Applicants respectfully disagree with this allegation. For example, although transceiver 212 is separate from the transceiver in the mobile radio 204, the two transceiver devices are located in separate units (one in a VRS repeater and one in a mobile radio), instead of being apart of a single device (a relay device).

For example, in the claimed invention, the second radio communication unit (170) is provided separately from the first radio communication unit (160) and the second unit is capable of transmission/reception of the signal by radio, for example. Furthermore, both unit (170) and unit (160) are apart of the relay device 100. (see present application, Fig. 1).

Fourthly, the Examiner alleges that Walkup discloses a first inhibition unit that inhibits transmission by the first radio communication unit during a period in which the transmission/reception of a signal by the second radio communication unit is detected. Specifically, the Examiner directs our attention to Walkup, col. 6, lines 34-63 and Figs. 3-4). (see Office Action, page 3, 6th paragraph). Applicants respectfully disagree with this allegation.

Applicants respectfully submit that Walkup fails to disclose such a claimed inhibition unit. For example, in the present invention the inhibition unit is being used to stop transmission of the signal from the first radio communication unit when the transmission/reception of the signal by the second radio communication unit is detected. In contrast with the present invention,

Walkup merely discloses a system of devices used to relay a signal either from the base-to-portable or from portable-to-base via a VRS repeater unit 202 and a mobile radio 204.

In other words, in Walkup's system the alleged first radio communication unit 204 and the second radio communication unit 212 do not attempt to transmit the same signal at the same time. Instead, in Walkup the same signal is propagated from either the first communication unit 204 to the second communication unit 212 or vise versa. Therefore, Walkup cannot have a first inhibition unit as claimed which controls transmission of the signal from the first radio communication unit during the time that the second communication unit is transmitting/receiving the signal.

Instead, Walkup is concerned with prioritizing a system of devices whereby prioritization of repeater units in a coverage area is performed wherein only one repeater unit will be the priority repeater unit while other repeater units will be non-priority repeater units. In contrast with the relay device in the present invention, the VRS repeater system in Walkup comprises a portable unit that communicates with a VRS repeater unit, the VRS repeater unit communicates with a mobile radio, and the mobile radio communicates with a base station. (see Walkup, Figs. 1 and 2).

Furthermore, Walkup's priority protocol is between repeater unit 1 (i.e., 202,204) and repeater unit 2 (i.e., 206,208), instead of between the VRS repeater unit and the mobile radio. In other words, Walkup's priority protocol is used to control two repeater units (each having a VRS repeater unit and a mobile radio) from transmitting at the same time. In Walkup, during either portable-to-base or base-to-portable transmissions, only the highest priority VRS repeater unit in the coverage area will handle the repeated transmission.

As such, Walkup's repeater system is distinguishable from the claimed relay device at least in part because Walkup requires a system of devices, e.g., at least two VRS repeaters, at least two mobile units, a base station and a portable unit, in order to realize inhibition of the signal from the first radio communication unit.

For at least the reasons noted above, Applicants respectfully submit that the claimed invention is distinguishable from Walkup.

According to MPEP §2131, “a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ...claims.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913 (Fed. Cir. 1989). The elements must be arranged as required by the claims, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Applicants respectfully submit that the Office Action has failed to establish the required *prima facie* case of anticipation because the cited reference, Walkup, fails to teach or suggest each and every feature as set forth in the claimed invention.

Applicants respectfully submit that independent claims 1, 6 and 8 are allowable over Walkup for at least the reasons noted above.

As for each of the dependent claims not particularly discussed above, these claims are also allowable for at least the reasons set forth above regarding their corresponding independent claims, and/or for the further features claimed therein.

Accordingly, withdrawal of the rejection of claims 1-13 and 15 under 35 U.S.C. §102(e) is respectfully solicited.

Conclusion

In view of the foregoing, Applicants respectfully submit that the application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact Carolyn T. Baumgardner (Reg. No. 41,345) at (703) 205-8000 to schedule a Personal Interview.

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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment from or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17; particularly, the extension of time fees.

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[Signature]
TCB/CTB

Respectfully submitted,

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